

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
STUDY TO VERIFY THAT AN EMERGENCY EXISTS (#FIZD-13-01)
EVERGREEN ENTERPRIZE ZONE
OCTOBER 29, 2014**

Pursuant to Section 76-2-206 M.C.A, the governing body established an interim zoning district to address the emergency situation in Evergreen. This is a study regarding the Evergreen Enterprise Zoning Overlay established on January 1, 2014 per Resolution 2378, to evaluate conditions constituting an emergency involving the public health, safety, morals, or general welfare.

Documents pertaining to the Evergreen Enterprise Zone are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell.

I. GENERAL INFORMATION

A. Interim Zoning District Location

The boundary of the interim zoning district overlay is all existing B-2 General Business or B-3 Community Business zoning in the Evergreen and Willow Glen Zoning Districts within 1500' of U.S. Highway 2 East beginning on the west side at Kalispell city limits and extending east and north to the intersection with Rose Crossing, all existing B-2 General Business or B-3 Community Business zoning in the Evergreen and Willow Glen Zoning Districts within 1500' of MT Highway 35 beginning on the west at the intersection with U.S. Highway 2 East and extending east to the intersection with Helena Flats Road, and all existing B-2 General Business or B-3 Community Business zoning in the Evergreen Zoning District within 1500' of MT Highway 548 (West Reserve Drive) beginning on the east side at the intersection with U.S. Highway 2 East and extending west to a point just east of the intersection with Cheery Lynn Road. See Exhibit A Sheet 1 and 2.

B. Character of Interim Zoning

Prior to the adoption of the interim zoning district, the permitted and conditional uses available within the boundary described above were limited to those included in the underlying B-2 and B-3 zoning districts. The general character of the interim zoning district is an overlay of one additional permitted use within the boundary described above. During the effective period of the overlay, the following use, taken from the current I-I Light Industrial zoning classification in the Flathead County Zoning Regulations (Section 3.27), is included as an additional permitted use:

25. Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:

A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.

- B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment; and boat building.*
- C. Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.*
- D. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.*
- E. Storage and warehousing such as mini-storage, boat and vehicle storage.*

All other permitted uses, conditional uses and bulk and dimensional requirements of the existing B-2 General Business or B-3 Community Business zoning, found in Sections 3.17 and 3.18 (respectively) of the Flathead County Zoning Regulations remain in place. At the end of the effective period of the overlay, uses that commenced in conformance with the overlay would become non-conforming (grandfathered) uses which could continue in the manner regulated by Section 2.07 of the Flathead County Zoning Regulations unless the governing body determines to amend the zoning to permanently include the interim added permitted uses.

II. A STUDY TO VERIFY THAT AN EMERGENCY EXISTS BASED ON STATUTORY CRITERIA (76-2-206 (B) M.C.A.)

A. Verify that an Emergency Exists;

The specific emergency that compelled the establishment of the interim zoning was the apparent increasingly rapid shift of retail and shopping land use away from the Evergreen core business area and into the City of Kalispell. There was a need to quickly expand the economic base of the Evergreen highway frontage from a focus primarily on retail and shopping in many areas to a greater diversity of land uses that could utilize existing public infrastructure as well as existing private commercial infrastructure along the Evergreen commercial corridor which is recognized as being accessible, visible, and relatively affordable. It was noted by the Evergreen Chamber of Commerce that the residents of Evergreen would benefit from increased economic activity in the Evergreen commercial corridor and from the utilization of existing vacant buildings to prevent blight. Based on this, the overlay interim zoning district was adopted to help protect public safety and promote the general welfare.

The Evergreen Enterprise Zoning Overlay is a unique utilization of the interim zoning allowed in state statute. Historically, interim zoning has been used in unzoned areas to stop an incompatible use from impacting the health, safety, or general welfare of a community. For this reason, the period during the interim zoning would be used to evaluate plans with the intention of adopting an amended permanent zoning. An interim zoning overlay was sought in this situation as a means of identifying the viability of additional light industrial and manufacturing business.

B. Circumstances that Constitute the Emergency;

The primary means of data collection for this study come from the Evergreen Land Use Inventory conducted by the Flathead County Planning and Zoning (FCPZ) Code Compliance Officer, George Ferris and empirical and qualitative evidence collected by FCPZ staff.

i. Conditions at Commencement of Interim Zoning

During the period of November 12 to December 16, 2013, the Evergreen Land Use inventory evaluated existing land uses of all parcels of land in the proposed Evergreen Interim Zoning District. A total of 473 parcels were surveyed as to current use and documented with a photograph to “time stamp” the status of the property for future reference. Parcels with multiple suites were documented to ensure all businesses were included in the study.

Analysis of this initial survey indicated that 254 unique businesses existed in the overlay. In addition to business uses, the area contained 1 cemetery, 5 churches, 2 fraternal/business associations, 3 government uses, 1 utility installation, and 87 residential lots. The primary business type would be classified as “retail sales” although the area has attracted a number of auto-oriented businesses and dealerships that have benefitted from the visibility and traffic generated by the highway.

Additionally, the inventory identified the area had a number of vacant buildings/suites or lots, some of which were actively for sale or lease while others were not. In December 2013, 18 buildings or suites were vacant. More notable vacancies included big box retail stores such as the former Walmart and Rex buildings that include large areas of underutilized parking. These unmaintained structures led to deteriorating facades and landscaping. Similar issues occurred with the number of vacant suites that existed within multi-unit structures. It was found the area contained 60 undeveloped parcels, most of which were not actively advertised for sale or lease at the time of the survey. As illustrated in the photos below, some of the larger undeveloped parcels have produced overgrown vegetation and attract litter.

Figure 1: Former Rex Store and Vacant Lot in December 2013



ii. Conditions after Ten Months

In September 2014, approximately 10 months after the area was initially surveyed, the area was re-evaluated to identify changes in land use and vacancies.

The updated survey indicates that the same number of parcels exist and no zone changes had occurred from B-2 or B-3 to any other zoning designation.

Over the 10 month period, the area maintained the same commercial nature. While the area initially hosted 254 businesses in late 2013, only 251 businesses existed by mid-September. Some businesses, such as the Centsible Auto Sales that existed at the time of the initial survey expanded to other parcels replacing pre-existing or recently vacant properties. Other businesses, such as the Box Seat Café relocated out of the area leaving a vacant building. The survey results also show a considerable amount of internal movement of existing business. All commercial losses occurred by business utilizing the B-2 or B-3 zoning uses and were not a loss of manufacturing uses permitted by the interim zoning overlay. There were no changes in the number or size of the cemetery, churches, fraternal/business associations, government uses, or utility installation. One fewer residence was noted due to the transition of a residential structure into a veterinary clinic after a Conditional Use Permit was issued.

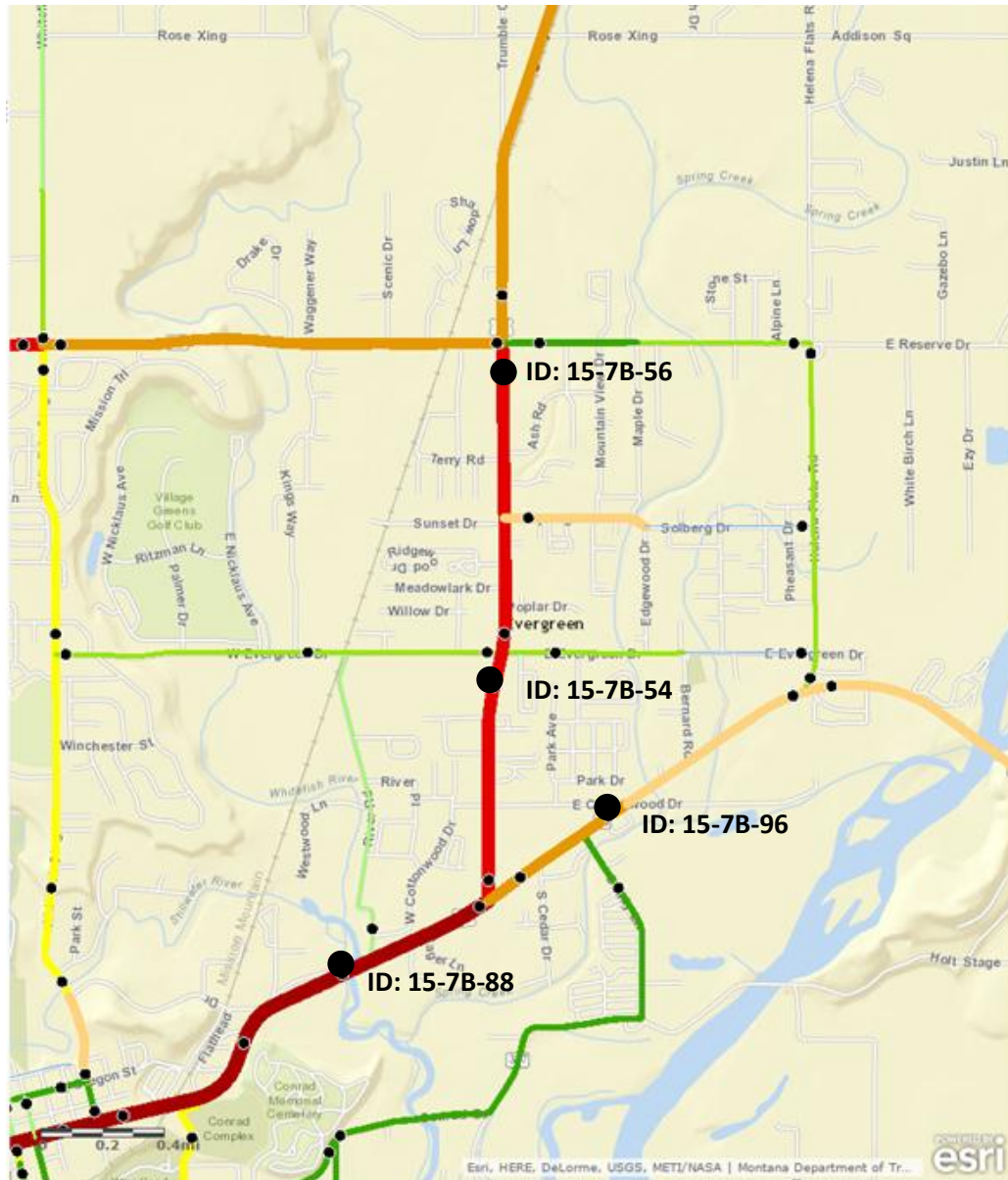
Figure 2: EEZO Inventory Results

PARCELS	2013	2014
Zoned B-2	439	439
Zoned B-3	34	34
Total	473	473
LAND USES	2013	2014
Business	254	251
Cemetery	1	1
Church	5	5
Fraternal/Business Association	2	2
Government	3	3
Utility	1	1
Residential	87	86
Total	353	349
VACANCIES	2013	2014
Buildings/ Suites	18	20
Parcels For Sale/Lease	15	13
Parcels Not for Sale/Lease	46	46
Total	79	79

In addition to a loss in the total number of businesses, the area also showed an increase in buildings/suites vacancies. As previously mentioned, a few of these new vacancies occurred as a result of internal movement, however the net loss of business is the main cause of the new vacancies. Within the ten month period, it was not apparent that any vacancies resulted in any further degradation of property facades or landscaping. While some comments from community business owners and realtors suggest that landscaping and facades have improved, it isn't clear whether this is direct result of the interim zoning overlay or of seasonal effects.

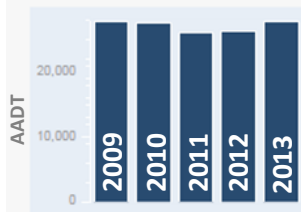
Based on data shown in Figure 3, it should be noted that the traffic counts in the area likely had little to do with the further decline in retail business in the overlay area. According to traffic count data collected by the Montana Department of Transportation, the Highway 2 and Highway 35 corridor has some of the highest traffic flow in the Kalispell area. While traffic counts have declined slightly since 2009 along some areas, counts have increased in 2013 for locations within the interim zoning area reducing the likelihood that business left the area in early 2014 due to a lack of consumer traffic.

Figure 3: Annual Average Daily Trips
(Source: Montana Department of Transportation)



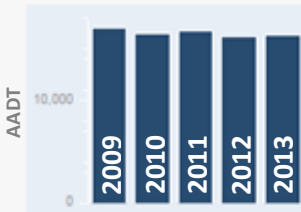
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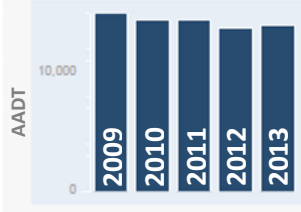
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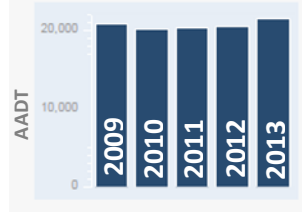
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iii. Qualitative Analysis

In addition to analyzing survey data, staff met with business owners and community leaders at an Evergreen Chamber of Commerce meeting on October 16, 2014 to discuss their perspectives on the Evergreen Enterprise Zoning Overlay. It appears a quantitative approach is not appropriate for adequately analyzing the situation in the Evergreen area. According to comments made by a local State Farm agent and chair of the Economic Development Committee, the declining situation was likely a result of multiple factors, including the inadequate public infrastructure, the recent economic recession, and the inflexibility of land uses that has characterized the Highway 2 and Highway 35 corridors in Evergreen. Anecdotal information in support of the overlay was also gathered from the Northwest Montana Association of Realtors (NMAR) members on October 17th and 20th, including a local realtor familiar with the Evergreen area who also favors the increase in flexibility offered to business interested in light industrial and manufacturing operations, especially as public water and sewer services already exist in Evergreen.

a. Public Infrastructure Improvements

Recent public infrastructure improvements by MDT along the Highway 2 and Highway 35 corridor indicate state and local interest in the Evergreen area. Specifically, stormwater drainage infrastructure is being improved to reduce the chronic water pooling found along roadways and highway frontage property. While the improvements mainly include replacing the storm drain system, materials submitted to the Flathead County Planning and Zoning office by MDT for a Floodplain Development Permit state, “additional improvements include roadway milling and overlay, seal and cover, and new curb and gutter and sidewalks.” Once complete, this improvement is expected to reduce standing water, update roadway aesthetics, and improve conditions for passenger and commercial transportation. It is anticipated that this will increase access and reduce drainage problems around properties within the current Evergreen Enterprise Zone Overlay area.

It was also noted that the nearby Flathead County Economic Development Authority (FCEDA) and BNSF-owned properties slated for a rail-served industrial park are an indication that the area east of Kalispell is an ideal location for manufacturing. An Industrial Rail Park Market Analysis prepared by KLJ for FCEDA in May 2013 identified strong potential for the industrial park. Their study states that, “based on recent trends, the potential is increasing for the industrial rail park to create jobs and support new industries especially as manufacturing and other rail-oriented industries continue to recover from the recession and expand operations.” While the Kalispell Rail Park has recently lost an anticipated federal funding source, the city of Kalispell plans on continuing to move forward with the project. Once complete, it would be expected that the cluster of industrial uses and supporting services at the park would encourage additional supporting and offshoot businesses in the vicinity. For this reason, Evergreen Chamber of Commerce and NMAR members have supported the overlay as a means of providing the flexibility to allow light assembly and

manufacturing within the currently B-2/B-3 zoned property along the Highway 2/Highway 35 corridors.

b. Economic Context

Finally, the redevelopment of the Evergreen area needs to be considered in relation to the regional and state economy. The relative strength of the manufacturing industry is important to note in understanding why noticeable changes have not occurred in Evergreen over the past 10 months. According to the Industrial Rail Park Market Analysis, “the data indicates that while manufacturing declined 39 percent during the past decade [in Flathead County], growth in employment suggests that manufacturing may experience the largest employment gains. While the fastest growing sectors are service oriented – Health Care; Arts, Entertainment and Recreations; Finance and Insurance; and Administrative and Waste Services – manufacturing and agricultural/forestry businesses should still be targeted for the park.”

Figure 4: Flathead County Annual Employment by Industry

(Source: Quarterly Census of Employment and Wages, MT Department of Labor and Industry, Research and Analysis Bureau)

NAICS Code	Industry	Average Annual Employment (2000)	Average Annual Employment (2010)	# Change	% Change
44	Retail Trade	4678	5504	826	17.7
62	Health Care and Social Assistance	3229	5125	1896	58.7
72	Accommodation and Food Services	4062	4830	768	18.9
31	Manufacturing	3880	2366	-1514	-39
23	Construction	2144	2364	220	10.3
56	Administrative and Waste Services	1712	2275	563	32.9
52	Finance and Insurance	1100	1596	496	45.1
81	Other Services (ex. Public Admin)	1209	1450	241	19.9
54	Professional and Technical Services	1172	1345	173	14.8
71	Arts, Entertainment, and Recreation	857	1279	422	49.2

c. Analysis Summary

While the interim zoning has not shown significant results thus far, it may be premature to see major changes. Part of the purpose of the interim zoning overlay was to allow for additional uses in order to identify if the vacancy rate was a result of land use regulation. As with most land use related issues, multiple factors influence the outcomes of a situation. A combination of underperforming public infrastructure, poor economic performance, and aging commercial buildings all

likely influenced the situation in Evergreen. The area is currently seeing revitalization in public infrastructure and a slow but steady strengthening of the regional and state economy. At this point there may be questions as to the “emergency” nature of the situation. The results of this study must therefore be contemplated by the governing body as potential options are weighed regarding the future of the interim zoning overlay. It appears both quantitatively and qualitatively that the first 10 months of the overlay is not sufficient time to accurately gauge the impact of the interim zoning. As the effort to extend the interim zoning district is minimal, staff suggests that the interim zoning be extended for another year, pursuant to and contingent upon the process outlined in 76-2-206(4) M.C.A.

C. The Potential Options for Mitigating the Emergency

During the 10 month period the Evergreen Enterprise Zoning Overlay has been in effect, staff has contemplated three options for mitigating the emergency within the time frame of the interim zoning.

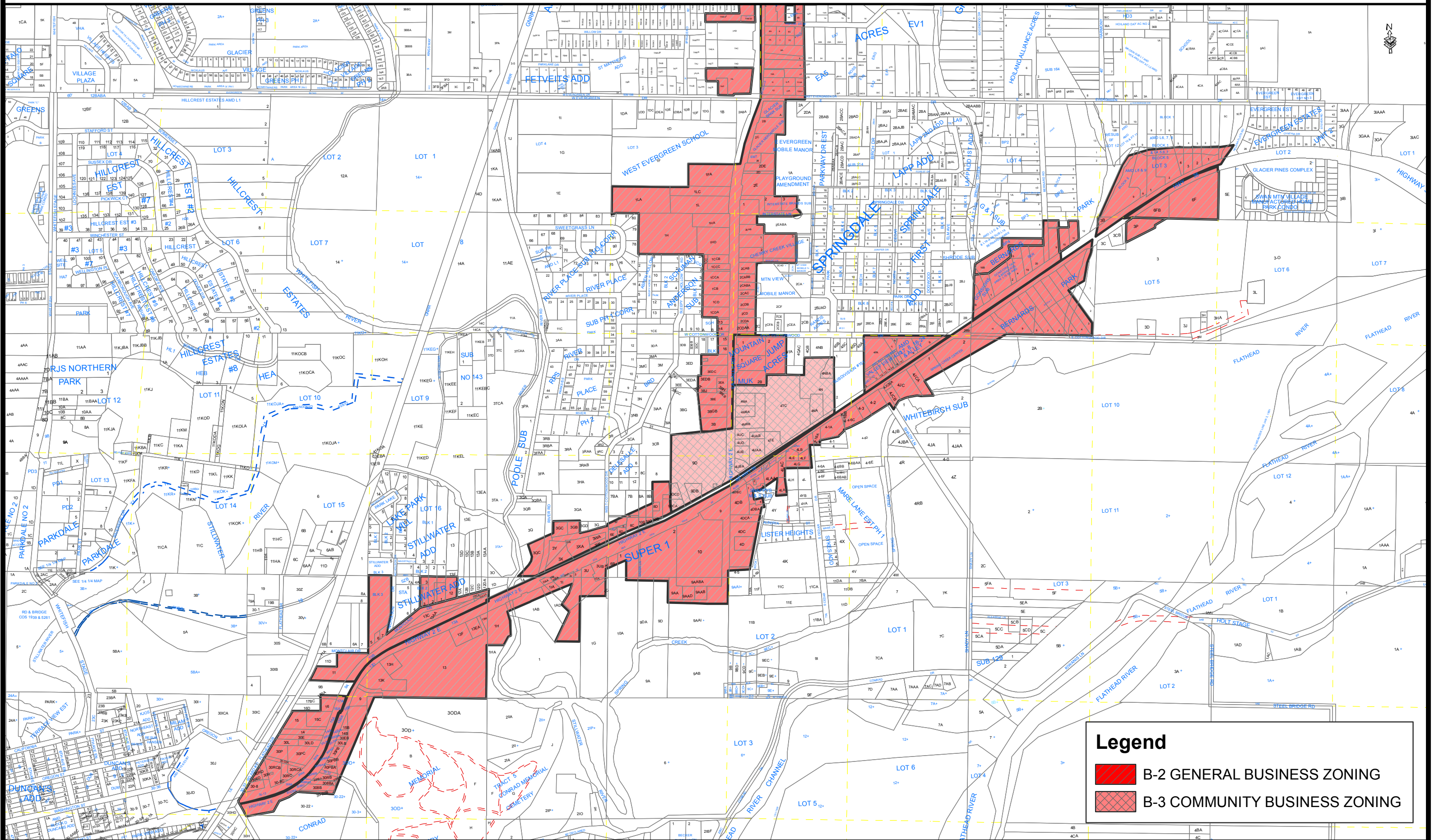
1. As a result of this study, it may be determined that an emergency does not in fact exist as a result of land use regulations. If this is determined, one option would be to do nothing at the end of the one year period and allow the interim zoning overlay to terminate and the B-2 and B-3 zoning districts to continue as they existed prior to January 1, 2014.
2. On the other hand, the lack of quantitative results may simply indicate that an insufficient amount of time has passed for significant results to be seen. If this is the case, another option would be to extend the interim zoning district for another year and allow staff to continue to study the Evergreen Enterprise Zoning Overlay. An additional inventory would be completed by October 2015 to identify the outcome of the zoning overlay at that time. Amendments to the permanent zoning may be contemplated at the end of the additional year if it is clearly determined not to be enough time, or if positive impacts of the overlay are in fact evident after one more year.
3. A final option may be to allow the interim zoning overlay to expire and move forward with the process of amending the permanent zoning in the upcoming year. According to Section 76-2-201(2), Part 2 zoning requires that a Board of County Commissioners be allowed “*to adopt or revise zoning regulations that are consistent with the master plan.*” As the Evergreen and Willow Glen zoning districts were adopted as Part 2 zoning, a review of the Kalispell City-County Master Plan would have to occur prior to any zoning amendments.

D. The Course of Action that the Governing Body Intends to Take, if Any, During the Term of the Interim Zoning District or Interim Regulation to Mitigate the Emergency

Upon approval of Resolution 2378 on December 19, 2013 the Evergreen Enterprise Zoning Overlay was established to quickly expand the economic base of the Evergreen area from a focus primarily on retail and shopping in many areas to a greater diversity of land uses. As required by state statute (M.C.A. 76-2-206(1)(b)), a study was initiated in November 2013 with an inventory of land uses in the interim

zoning district. Section 76-2-206 (2) M.C.A. states after one year, *“the board of county commissioners may extend the resolution for 1 year, but not more than one extension may be made.”* Section 76-2-206 (4)(a) M.C.A. also notes that *“a study or investigation as provided in subsection (1)(b) must be completed prior to the hearing on the proposed extension of the resolution”*, a condition which this study satisfies. The governing body will thus contemplate the results of this study and the potential options outlined above when deciding upon future actions for the interim zoning district.

EXHIBIT A, SHEET 1 OF 2
BOUNDARIES OF PROPOSED INTERIM ZONING DISTRICT OVERLAY



FLATHEAD COUNTY GIS
The areas depicted on this map are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. Deriving conclusions from this map is done at the user's risk.

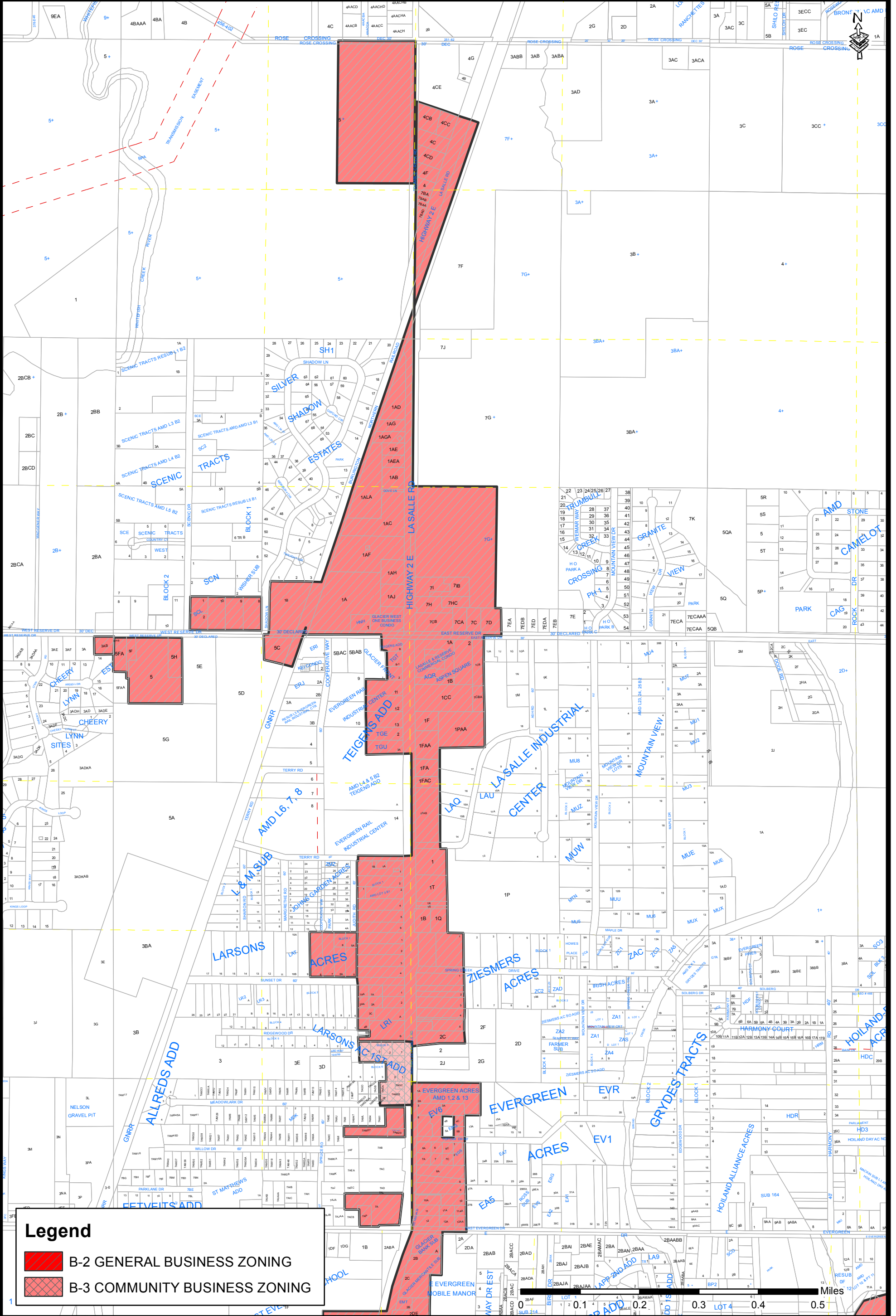
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Date: 11/7/2013

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EXHIBIT A, SHEET 2 OF 2

BOUNDARIES OF PROPOSED INTERIM ZONING DISTRICT OVERLAY



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